



California Fair Political Practices Commission

April 25, 1989

Honorable Paul A. Woodruff
Member of the Assembly
State Capitol
Sacramento, CA 95814

Re: Your Request for Informal Assistance
Our File No. I-89-180

Dear Mr. Woodruff:

You have requested advice regarding application of the provisions of the Political Reform Act (the "Act"),^{1/} as amended by Proposition 73. Because your request is a general inquiry, we treat your request as one for informal assistance pursuant to Regulation 18329(c) (copy enclosed).^{2/}

QUESTION

May Assembly members and candidates solicit contributions for political committees which are not controlled by candidates?

CONCLUSION

Proposition 73 does not prohibit an Assembly member or candidate from soliciting funds on behalf of a committee which is not controlled. However, such activity may be relevant to whether the committee is, in fact, controlled by the candidate.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

^{2/} Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329 (c)(3).)

FACTS

Before taking steps to conduct campaigns for Republicans in the Assembly, you would like our opinion on the legality of creating an "Assembly Republican Fund" to manage and pay for: research, candidate recruitment expenses, travel and lodging expenses, survey expenses and analysis, financial tracking and research, list development, campaign assignments of consultants/fee negotiation, race analysis, and miscellaneous needs such as copy accounts with state agencies, postage expense, clerical assistance and office overhead.

You have indicated that the "Assembly Republican Fund" would not be candidate or Assembly member controlled. A board of five and a treasurer would administer the committee.

ANALYSIS

Proposition 73 added new provisions to the Act which limit contributions to candidates, their controlled committees, political committees, broad based political committees and political parties. (Sections 85301, 85302, 85303 and 85305.) Proposition 73 also prohibits transfers of campaign contributions between candidates and their controlled committees.

Proposition 73 does not prohibit a candidate from soliciting funds on behalf of a committee which is not a controlled committee. However, such activity may be relevant to whether the committee is controlled by the candidate. By itself, soliciting funds on behalf of a committee would not indicate control of the committee. (Madden Advice Letter, No. A-85-197, copy enclosed.)

To ensure that the committee is not a "controlled committee," no elected officer or candidate, no agent of an elected officer or candidate, and no committee controlled by an elected officer or candidate may participate in the actions or decisions of the committee.

Section 82016 provides:

"Controlled committee" means a committee which is controlled directly or indirectly by a candidate or state measure proponent or which acts jointly with a candidate, controlled committee or a state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he, his agent or any other committee he controls has a significant influence on the actions or decisions of the committee.

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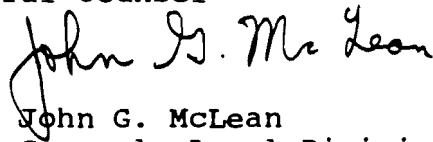
The Commission has interpreted the definition of "controlled committee" very broadly to include any significant participation by a candidate, his or her agent, or representatives of any other committee he or she controls in the actions of a committee. Enclosed for your guidance are the following letters issued by the Commission on the subject of what constitutes "control" of a committee:

Pastrick Advice Letter, No. A-87-063;
Ferguson Advice Letter, No. A-86-044;
Gross Advice Letter, No. A-84-143

I trust this answers your question. If you have any further questions, please contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel



By: John G. McLean
Counsel, Legal Division

KED:JGM:plh

Enclosures

Paul
Woodruff
A S S E M B L Y

March 22, 1989

Mr. John McClean
Fair Political Practices Commission
428 "J" St.
Sacramento, CA 95814

Dear Mr. McClean:

The passage of Proposition 73 has given rise to numerous questions regarding how the ongoing needs of political campaigning are to be best met.

Before I take steps to assure completion of the work necessary to conduct successful campaigns for Republicans in the Assembly, I would like your opinion on whether or not the following proposal is appropriate and legally within Proposition 73 and the Political Reform Act as it has been amended.

PROPOSAL

The creation of an "Assembly Republican Fund" to manage and pay for the following:

- Research
- Candidate recruitment expenses.
- Travel and lodging expenses
- Survey expenses and analysis.
- Financial tracking and research.
- List development.
- Campaign assignments of consultants/fee negotiation.
- Race analysis.
- Miscellaneous needs.
 - Copy accounts with state agencies.
 - Postage expense.
 - Clerical assistance.
 - Office overhead.

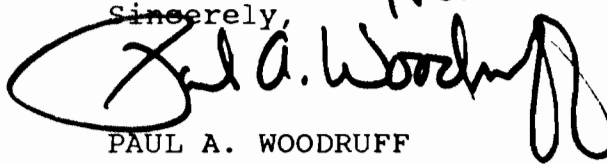
This committee would not be candidate or Assembly member controlled. A board of five and a treasurer would administer the "Assembly Republican Fund."

Mr. McClean
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Further, could Assembly members and candidates solicit contributions for the fund to give it an ongoing financial base from which to draw? At this point there are members of the Assembly soliciting funds for their respective parties and other sympathetic Political Action Committees. I want to be sure that this kind of activity is not in violation of Prop. 73.

I would appreciate as prompt a response as possible.

Sincerely,

Thanks

PAUL A. WOODRUFF

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Woodruff
A S S E M B L Y

March 22, 1989

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Fair Political Practices Commission
428 "J" St.
Sacramento, CA 95814

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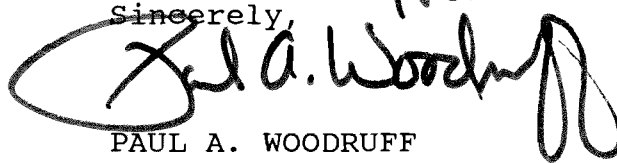
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I would appreciate as prompt a response as possible.

Sincerely,

Thanked

PAUL A. WOODRUFF



California Fair Political Practices Commission

March 29, 1989

Honorable Paul A. Woodruff
Member of the Assembly
P.O. Box 1622
Redlands, CA 92373

Re: Letter No. 89-180

Dear Assemblyman Woodruff:

Your letter requesting advice under the Political Reform Act was received on March 29, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John McLean an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script, reading "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh